

EXHIBIT 2

Higgins, Christopher J.

From: Randall Garteiser <rgarteiser@ghiplaw.com>
Sent: Wednesday, September 24, 2014 4:15 PM
To: Caridis, Alyssa
Cc: Peter Brasher; Walter Lackey; AudibleMagic-BlueSpike; Christopher Honea; bluespike@ghiplaw.com; Colin Jensen; Eric Findlay
Subject: Re: Blue Spike v. Texas Instruments, et al.

Audible Magic still has not provided dates for its experts. Is Audible Magic now not making them available to be deposed? For context, Gabe didn't respond to my other email, and I prefer to discuss it here while we are discussing experts. He said one expert would be available, give a date, then I requested to know what he was going to opine upon. I haven't heard back. Regardless, is he available to be deposed next Monday or Tuesday for a deposition? Please advise at the meet and confer today at 4:30 pm Central. We need lead and local counsel on the call, or propose a time when they are available later today or tomorrow.

Prof. Tewfik may still be available to be deposed. We haven't given up on him being available at the beginning of next week.

We disagree with your assertions below. They are not constructive and accusatory.

Blue Spike agrees not to have any experts present at the claim construction hearing notwithstanding the reservations made by the parties in the P.R.4-3 statement(s).



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On Sep 24, 2014, at 1:04 PM, Caridis, Alyssa <acaridis@orrick.com> wrote:

Randall,

I think we can all agree that a deposition of Dr. Tewfik (on the topics of his declaration) after Defendants have to file their reply brief this week is useless. It's a waste of everyone's time for you to even suggest such a thing. The concept is straight forward: Blue Spike submitted an expert declaration in opposition to a summary judgment motion and Audible Magic immediately sought to depose said expert in anticipation of filing its reply. Simple. But given that Blue Spike is unable (although it appears that unwilling is more accurate) to provide a date for Dr. Tewfik's deposition, we suggest the following: neither Audible Magic nor Blue Spike will bring their experts to the

hearing on the indefiniteness motion, but will rest on their declarations. Please let us know by 3:30 pm CDT whether this is acceptable.

Turning to 30(b)(1) depositions, we just received this morning the deposition notices that you purportedly served on Audible Magic "over a month ago." Having just served the notices this morning, your statements that Blue Spike "asked Audible Magic to provide 2 or 3 availability dates" and that "Audible Magic continues to refuse to provide dates" are patently false. (And to be frank, Blue Spike is the party in this case that has a track record of ignoring correspondence and failing to meet deadlines.) Audible Magic will review these newly served deposition notices and get back to Blue Spike in a reasonable amount of time with dates the witnesses are available.

Alyssa

From: Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]

Sent: Tuesday, September 23, 2014 7:16 PM

To: Caridis, Alyssa

Cc: Peter Brasher; Walter Lackey; AudibleMagic-BlueSpike; Christopher Honea; bluespike@ghiplaw.com; Colin Jensen; Eric Findlay

Subject: Re: Blue Spike v. Texas Instruments, et al.

We contacted Blue Spike's expert and he hasn't responded or otherwise indicated he is available, so it doesn't appear that this week is going to work.

Before a meet and confer, please provide a statutory basis for your client's request on such such notice. He is a professor and Head of a Department. If you have some alternative dates not just the following day after your client can't get the date on 36 hours notice, give them to us now like I requested previously.

Also, Blue Spike has several Rule 30(b)(1) deposition notices that we've asked Audible Magic to provide 2 or 3 availability dates for on each deponent, when they we would be available to accommodate them. Audible Magic continues to refuse to provide dates. Please advise Audible magic's position so we can meet and confer on both motions to compel at the same time. You may have noticed Blue Spike served its notices over a month ago so time is of the essence.

With respect to Audible Magic's expert, we need to know what he plans to opine about prior to taking his deposition. What are the topics the expert will opine upon? Is it limited to his declaration? Please advise.

Be well,
Randall

On Sep 23, 2014, at 4:54 PM, "Caridis, Alyssa" <acaridis@orrick.com> wrote:

Randall,

Shall we take from your continued silence that Blue Spike is refusing to meet and confer?

Alyssa

From: Caridis, Alyssa

Sent: Tuesday, September 23, 2014 11:01 AM

To: Randall Garteiser

Cc: Peter Brasher; Walter Lackey; AudibleMagic-BlueSpike; Christopher Honea; bluespike@ghiplaw.com; Colin Jensen; Eric Findlay
Subject: RE: Blue Spike v. Texas Instruments, et al.

Randall,

Please let us know by 4 pm CDT whether Blue Spike will make Dr. Tewfik available for deposition on Thursday, September 25 in Austin. If you do not plan to make Dr. Tewfik available, then we would request a meet-and-confer on the issue at 4 pm CDT. Please confirm this time and we can circulate a dial-in.

Alyssa

From: Caridis, Alyssa
Sent: Monday, September 22, 2014 7:12 PM
To: 'Randall Garteiser'
Cc: Higgins, Christopher J.; Peter Brasher; Walter Lackey; AudibleMagic-BlueSpike; Christopher Honea; bluespike@ghiplaw.com; Colin Jensen; Eric Findlay
Subject: RE: Blue Spike v. Texas Instruments, et al.

Randall,

Prior to the filing of your opposition, we specifically asked what your plans were for John Snell (see attached). It is my understanding that you had similar conversations with other defendants. But regardless, as I noted in my earlier e-mail, we are also available to take Dr. Tewfik's deposition on Thursday (Sept. 25) in Austin. And just so there is no confusion, my prior e-mail also noted that if you do not confirm the 24th date by 10:00 am CDT tomorrow, we will have to move the deposition to Thursday (Sept. 25), due to travel and logistics concerns.

With regard to your comment on notice, it is difficult to imagine, under the circumstances, how we could have provided more reasonable notice. We had no way of knowing whether Blue Spike would rely on an expert declaration in its opposition. As soon as we saw that you were, we noticed the deposition for a reasonable date, given the upcoming deadline and hearing.

Alyssa

From: Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]
Sent: Monday, September 22, 2014 6:58 PM
To: Caridis, Alyssa
Cc: Higgins, Christopher J.; Peter Brasher; Walter Lackey; AudibleMagic-BlueSpike; Christopher Honea; bluespike@ghiplaw.com; Colin Jensen; Eric Findlay
Subject: Re: Blue Spike v. Texas Instruments, et al.

Alyssa,

That is not a true statement on your part. Defendants never provided any dates of availability prior to the filing of Blue Spike's Opposition, and now Defendants are attempting to violate the Federal Rules of Civil Procedure notice requirements to accommodate their schedule. Notwithstanding Blue Spike's objections, we still have not received confirmation whether Blue Spike's expert Prof. Tewfik is even available to be deposed in two days. We will let Defendants know but we don't consider the deposition in two days very likely. Do Defendants have any alternative dates that would accommodate their schedule that we can

propose to Prof. Tewfik, if this Wednesday at 9:00 am Central does not work for him. Blue Spike had similar issues scheduling MorphoTrust's expert.

Thanks,



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On Sep 22, 2014, at 8:47 PM, Caridis, Alyssa <acaridis@orrick.com> wrote:

Randall,

We received Dr. Tewfik's declaration, for the first time, at 12:39 am CDT on Saturday, September 19. Audible Magic immediately turned around a deposition notice and served it less than 32 hours later – at 7:02 am CDT on Sunday, September 20. The parties agreed in early August to conduct expert depositions after declarations were filed (to the extent any were). We frankly don't understand the push-back that we appear to be receiving. Blue Spike submitted a declaration with its opposition; Audible Magic is entitled to take the deposition of that declarant prior to filing its reply brief. (Similarly, all of Defendants' declarants were available for Blue Spike to depose, if it wanted to do so, prior to filing its opposition.)

Can you explain the disconnect (to the extent there is one)?

Thanks,
Alyssa

From: Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]

Sent: Monday, September 22, 2014 5:52 PM

To: Higgins, Christopher J.

Cc: Caridis, Alyssa; Peter Brasher; Walter Lackey; AudibleMagic-BlueSpike; Christopher Honea; bluespike@ghiplaw.com; Colin Jensen; Eric Findlay

Subject: Re: Blue Spike v. Texas Instruments, et al.

I may have missed it, but did any defendant notice Ahmed Tewfik's deposition prior today (over the weekend we received an email service). Specifically, was he previously notified? I had requested any prior notice of his deposition being forwarded to us.

We don't plan to file the '308 patent claim construction chart, as we fill it is the responsibility of the asserting party, here Audible Magic. Also, it links to different documents on the docket for the case. \

Is Findlay Craft filing the joint motion for the extension, or do you want us to do so?

Thanks,



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On Sep 22, 2014, at 7:38 PM, Higgins, Christopher J. <chiggins@orrick.com> wrote:

Randall,

You may file the charts as attached to your email. Please let us know the status of Tewfik's availability for Wednesday's deposition so that we can make arrangements.

-Chris

From: rgarteiser@ghiplaw.com

Sent: Monday, September 22, 2014 7:49 PM

To: [Christopher Higgins](#)

Cc: [Caridis, Alyssa](#), [Peter Brasher](#), [Walter Lackey](#), [AudibleMagic-BlueSpike@orrick.com](#), [Christopher Honea](#), bluespike@ghiplaw.com, [Colin Jensen](#), [Eric Findlay](#)

Blue Spike has accepted all of the edits to the Blue Spike patents-in-suit claim construction chart.

Did your client have any compromise language on the '308 patent claim construction chart? In the attached revised chart for the '308 patent, Blue Spike abandons having it as a separate entry and just nests it under the larger phrase.

This is how it comes up and how it is relevant to the Court.

Please advise if these revised revisions are acceptable to Audible Magic for the '308 patent so we can file the stipulation and these two charts as well.

Thanks in advance at your efforts to compromise. We will stay on-line in the hopes of getting this filed today.



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On Sep 22, 2014, at 6:19 PM, Higgins, Christopher J. <chiggins@orrick.com> wrote:

Randall,

Further to Alyssa's email below, the attached chart includes two minor corrections and shortening of Defendants' footnotes 2 and 3. No other changes were made. With respect to the '308 patent chart, Audible Magic will not remove its position on the term that Blue Spike just proposed for construction on Friday night, the day this joint statement was due. You can insert your own footnote and object if you would like, or just remove the term. With these changes, the charts are ready to file. Should Blue Spike wish to needlessly delay the process another day, then the extension must be filed with the court tonight.

-Chris

From: [Caridis, Alyssa](#)

Sent: Monday, September 22, 2014 7:06 PM

To: rgarteiser@ghiplaw.com

Cc: [Peter Brasher](#), [Walter Lackey](#), [AudibleMagic-BlueSpike@orrick.com](#), [Christopher Honea](#), [bluespike@ghiplaw.com](#), [Colin Jensen](#), [Eric Findlay](#)

Randall,

Please see the attached. I hope this helps.

I understand that you've been talking with Walter about getting an extension on file for the 4-5 charts today. Please advise us whether we can file those papers.

Along those lines, please let us know how Blue Spike wishes to proceed on the "content related data" term in the '308 Patent.

Finally, as I'm sure you can appreciate, we need to make arrangements for Dr. Tewfik's deposition this week. We are available to conduct the deposition either Wednesday or Thursday in Austin. However, if we don't hear from you by 10:00 am CDT tomorrow, we will not be able to make Wednesday work, and the depo will have to go forward on Thursday. If we have not gotten a commitment from Blue Spike on this matter by the end of day tomorrow, we will seek relief from the Court.

Alyssa

From: Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]
Sent: Monday, September 22, 2014 3:42 PM
To: Caridis, Alyssa
Cc: Peter Brasher; Walter Lackey; AudibleMagic-BlueSpike; chonea@ghiplaw.com Honea; bluespike@ghiplaw.com; Colin Jensen; Eric Findlay
Subject: Re: Blue Spike v. Texas Instruments, et al.

Blue Spike would like a copy of the certificate of service to all parties.

Thanks,



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On Sep 22, 2014, at 4:30 PM, Caridis, Alyssa <acaridis@orrick.com> wrote:

Randall –

We disagree. Please point us to a single communication or pleading, prior to 9:21 p.m. CDT Friday night, where Blue Spike proposed construing “content related data” as a standalone term in the ’308 Patent.

The additions that Audible Magic has made are 1) factually accurate and 2) not attorney argument. You are more than welcome to include a footnote of your own...or take out the term.

Regarding discovery, yesterday, Audible Magic served a deposition notice for Dr. Tewfik, based on the declaration received on Friday and per the parties’ earlier discussions regarding expert depositions. Yesterday, Audible Magic also served a notice of subpoena to Gregg Moskowitz. All notices were served on all parties. Please explain your concerns regarding time allotments.

Please let us know a time when you are available today.

Alyssa

From: Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]
Sent: Monday, September 22, 2014 2:16 PM
To: Caridis, Alyssa
Cc: Peter Brasher; Walter Lackey; AudibleMagic-BlueSpike; chonea@ghiplaw.com Honea; bluespike@ghiplaw.com; Colin Jensen; Eric Findlay
Subject: Re: Blue Spike v. Texas Instruments, et al.

We have attempted to contact Mr. Tewfik and have not heard back about his availability. Blue Spike reserves its rights to raise appropriate objections to his noticed of deposition. Please advise if he was previously noticed as we are not aware of any prior notices being served. Blue Spike reserves its rights with respect to Defendants' experts. To the extent that two days notice is considered "reasonable" please advise.

Service on all defendants of discovery related demands may impact total time allotments in the case, which is what prompted the service question to all defendants or not. Also, it pertains to other defendants appearing for the deposition. Please confirm if all other defendants were properly served with this subpoena.

We are not available to meet and confer at 6 pm Central as you request below.

Blue Spike has addressed your other concerns below via a separate email from me. If you disagrees, please let us know.

On Sep 22, 2014, at 3:12 PM, "Caridis, Alyssa" <acaridis@orrick.com> wrote:

Peter-

We did not attempt service of any third party subpoenas yesterday. Pursuant to FRCP 45(a)(4) we provided *notice* to Blue Spike of a subpoena to third party Gregg Moskowitz that Audible Magic intends to serve via process server. Thank you for pointing out the inadvertent error in the certificate of service. It should have noted that the notice was being served on all counsel *via e-mail*, which it was. If you are going to take issue with this meaningless oversight, we can certainly re-issue our certificate of service. We trust that Blue Spike will similarly follow the Court's service rules from now on. (*Contra*Dkt. 1781).

Your statements regarding the 4-5 claim chart make no sense. As a starting point, all communications received from Blue Spike on both 4-5 charts were received after close of business on Friday. At 9:21 pm CDT, Mr. Garteiser sent Blue Spike's edits to the '308 chart. In that draft, you chose to re-order claim terms. We did not and have not changed Mr. Garteiser's order of terms in the chart. The chart we sent back has the exact same order as Mr. Garteiser's version. So what exactly is the problem?

Also, please explain how Audible Magic "continues to group large phrases together in a confusing and self-serving manner." Audible Magic sought construction of a single phrase in the '308 patent. All other disputed claim terms/phrases were proposed by Blue Spike. (See Blue Spike's attached LPR 4-1 submission.) If anyone is grouping large phrases together, it is Blue Spike.

Finally, you are correct – the LPR 4-5 chart should reflect compromises made by the parties. But it should NOT include new claim terms. In its LPR 4-1 submission, Blue Spike never indicated its desire or intention to construe "content related data" as its own term. The parties never had any discussions, let alone reached any compromises, that "content related data" should be separately construed. The comments that Audible Magic inserted into the chart inform the Court of the procedural history related to the term and simply preserves Audible Magic's objection. This is not 'self-serving attorney argument.' If you elect to drop "content-related data" as a stand-alone term, we will happily remove the language.

We really don't see how these issues are even in dispute and warrant a meet-and-confer. Nevertheless, we are available at 4 pm PDT this afternoon. Also, we are still awaiting a response regarding the deposition notice to Dr. Tewfik. If Blue Spike does not intend to make Dr. Tewfik available for a deposition in accordance with that notice, we will address that issue at 4 pm PDT as well.

Alyssa

From: Peter Brasher [<mailto:pbrasher@ghiplaw.com>]
Sent: Monday, September 22, 2014 12:00 PM
To: Caridis, Alyssa
Cc: Walter Lackey; AudibleMagic-BlueSpike; Randall Garteiser; chonea@ghiplaw.com Honea; bluespike@ghiplaw.com; Colin Jensen; Eric Findlay
Subject: Re: Blue Spike v. Texas Instruments, et al.

Alyssa,

As you may know, our firm doesn't work on Sunday. And we definitely don't accept service of third party subpoenas on Sunday. Please re-serve this document, and revise the incorrect certificate of service. It indicates it was properly served on all parties through ECF. It was not served through ECF and doesn't appear to have been served on all parties. This applies to any subpoenas served on Blue Spike.

With respect to your inquiry below, Audible Magic failed to present the terms in their contextual order as they appear in the claims. Audible Magic failed to do so over the objection of Blue Spike, which Blue Spike reiterated on the conference of 4-3 between Mr. Garteiser and Mr. Higgins. Also, Audible Magic continues to group large phrases together in a confusing and self-serving manner. These are not new objections. Furthermore, Audible Magic in its 11:34 pm edit on Friday—the deadline for the Audible Magic counterclaim submission of its claim chart pursuant to the scheduling order—attempted to include self-serving attorney argument. This is not appropriate in this document, please remove such comments and Blue Spike is not opposed to it being filed. Furthermore, the Claim Construction charts do not merely reiterate the P.R. 4-2 statement, it is filed after claim construction briefing to reflect any compromises made by the parties.

We are available to meet and confer anytime today, if necessary.



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On Sep 21, 2014, at 10:32 AM, Caridis, Alyssa
<acaridis@orrick.com> wrote:

Peter,

Please articulate any good faith “concerns and disagreements with the ‘308 Chart edits.” On Friday, we provided you with a LPR 4-5 chart that accurately reflected each party’s position for each and every claim term set forth in their LPR 4-3 submission to the Court. The chart, as we provided it to you Friday afternoon, was organized in the same order as Audible Magic’s opening claim construction brief. None of this can be disputed. After hours of promising that your edits were forthcoming, we finally received your comments at 9:21 p.m. CDT. You did not bother to provide your edits in red-line, despite our repeated requests throughout this litigation for you to do so.

After we were able to review your edits, we noted that you chose to arbitrarily re-order the chart in a way that was neither consistent with the claim language nor with any parties’ brief. Nevertheless, in the interest of meeting our deadline, we accepted your edits. Additionally, you added “content related data” as a separate term to be construed. It cannot be disputed that this was the first time that Blue Spike proposed to construe “content related data” as stand-alone term in this case. That term was not part of any parties’ LPR 4-1, 4-2, or 4-3 submissions. Rather, Blue Spike had proposed the entire “presenting...” phrase for construction, which included “content related data.”

In proposing this new stand alone term, you inserted a new row in the chart for “content related data” and inserted your construction. Because this was never a term that either party contended needed its own construction previously, you were unable to insert Audible Magic’s construction and therefore left that cell blank when sending your chart back to us. In response, we inserted a recitation of the procedural history, noted our objection to how the term was being introduced, and proposed our own construction. None of this was controversial.

To be clear, Audible Magic accepted each and every one of your edits to the LPR 4-5 chart (despite disagreeing with them) and then inserted its own position for the new term proposed by Blue Spike. It is difficult to see how this could result in Blue Spike having any good faith concerns or disagreements. Rather, your refusal to sign-off on Audible Magic’s ‘308 patent LPR 4-5 chart seems to be in

retaliation for Blue Spike's inability to get its own chart prepared and circulated in a timely manner. This is unacceptable.

Please immediately provide either any good faith concerns you have with the '308 chart or your permission that we can file the chart. If we don't hear from you by noon CDT on Monday, we will inform the Court of your refusal.

Regards,
Alyssa Caridis

From: Peter Brasher [<mailto:pbrasher@ghiplaw.com>]
Sent: Friday, September 19, 2014 11:29 PM
To: Walter Lackey
Cc: Ramsey, Gabriel M.; Eric Findlay; zFBBlueSpike@cooley.com; wjohnson@mayerbrown.com; tmajid.ian@morganlewis.com; tglanier@jonesday.com; tdavis@morganlewis.com; tcorbin@fenwick.com; sroe@gibsondunn.com; sradke@cooley.com; spfeiffer@omm.com; sjcorr@jonesday.com; ShazamBlueSpike@gibsondunn.com; ryagura@omm.com; rtautkus@morganlewis.com; rchan@morganlewis.com; rbeard@intprop.com; gmcneal@mayerbrown.com; plenihaan@cooley.com; oarmon@cooley.com; nwhilt@omm.com; Chatterjee, I. Neel; mweinstein@cooley.com; mmolano@mayerbrown.com; Jones, Mike; lwytmsa@loeb.com; lcarnel@loeb.com; kristin.cleveland@klarquist.com; kfriesen@mayerbrown.com; kdlynott@jonesday.com; jsigale@loeb.com; Vandenberg, John; jfischer@cooley.com; jcarothers@cov.com; hkeefe@cooley.com; ehawes; Reines, Edward; ecaligiuri@cov.com; dtconrad@jonesday.com; David Kusters; djohnson@morganlewis.com; dgoetzel@intprop.com; ddonnelly@fenwick.com; ddacus@dacusfirm.com; dawn.jenkins@dlapiper.com; Danny Noteware; cswickhamer@loeb.com; CLEARCHANNELBLUESPIKEOMMTEAM@omm.com; Higgins, Christopher J.; byron.beebe@weil.com; bluespikeservice@fenwick.com; blake.jackson@dlapiper.com; bkohm@fenwick.com; bhershkowitz@gibsondunn.com; AudibleMagic-BlueSpike; Valentine, Andrew; andrew.perito@weil.com; Caridis, Alyssa; ablankenheimer@cov.com; Randall Garteiser; chonea@ghiplaw.com Honea; bluespike@ghiplaw.com; Colin Jensen
Subject: Re: Blue Spike v. Texas Instruments, et al.

Counsel,

Blue Spike is amenable to the proposed extension to Monday.

Blue Spike has similar concerns regarding and disagreements with the '308 Chart edits, Audible Magic sent at approximately 11:34 pm Central. Blue Spike does not oppose a motion relating to the '308 Chart as well.

Blue Spike stands ready to work through these filings either tomorrow or first thing Monday morning.

Regards,



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On Sep 20, 2014, at 12:54 AM, Walter Lackey
<wlackey@findlaycraft.com> wrote:

Given the incompleteness of BS's chart and having to go through and sort through the many issues and odd formatting, Audible Magic and customers, along with Futronic, Fulcrum, and IriTech, do not oppose an extension to Monday and have not heard any other defendant object to that.

Walter

Findlay Craft P.C.

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From: Walter Lackey

Sent: Friday, September 19, 2014 11:11 PM

To: Peter Brasher; Ramsey, Gabriel M.

Cc: Eric

Findlay; zFBBlueSpike@cooley.com; wjohnson@mayerbrown.com; tmajidian@morganlewis.com; tglanier@jonesday.com; tdavis@morganlewis.com; tcorbin@fenwick.com; sroe@gibsondunn.com; sradke@cooley.com; spfeiffer@omm.com; sjcorr@jonesday.com; ShazamBlueSpike@gibsondunn.com; ryagura@omm.com; rtautkus@morganlewis.com; rchan@morganlewis.com; rbeard@intprop.com; gmcneal@mayerbrown.com; pleniham@cooley.com; oarmon@cooley.com; nwhilt@omm.com;

Chatterjee, I.

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Danny

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Andrew; andrew.perito@weil.com; Caridis,

Alyssa; ablankenheimer@cov.com; Randall

Garteiser; chonea@ghiplaw.com Honea; bluespike@ghiplaw.com; Colin Jensen

Subject: RE: Blue Spike v. Texas Instruments, et al.

Importance: High

Audible Magic is reviewing Blue Spike's chart and will get back with you later this evening; given the late hour Blue Spike is not authorized to file anything until Audible Magic has approved this joint filing, as well as received the approval of all defendants.

Walter

Findlay Craft P.C.

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From: Peter Brasher [<mailto:pbrasher@ghiplaw.com>]
Sent: Friday, September 19, 2014 10:46 PM
To: Ramsey, Gabriel M.
Cc: Walter Lackey; Eric Findlay; zFBBlueSpike@cooley.com; wjohnson@mayerbrown.com; tmajidian@morganlewis.com; tglanier@jonesday.com; tdavis@morganlewis.com; tcorbin@fenwick.com; sroe@gibsondunn.com; sradke@cooley.com; spfeiffer@omm.com; sjcorr@jonesday.com; ShazamBlueSpike@gibsondunn.com; ryagura@omm.com; rtautkus@morganlewis.com; rchan@morganlewis.com; rbeard@intprop.com; qmcneal@mayerbrown.com; pleniham@cooley.com; oarmon@cooley.com; nwhilt@omm.com; Chatterjee, I. Neel; mweinstein@cooley.com; mmolano@mayerbrown.com; Jones, Mike; lwytsma@loeb.com; lcarnel@loeb.com; kristin.cleveland@klarquist.com; kfriesen@mayerbrown.com; kdlynott@jonesday.com; jsigale@loeb.com; Vandenberg, John; jfischer@cooley.com; jcarothers@cov.com; hkeefe@cooley.com; ehawes; Reines, Edward; ecaligiuri@cov.com; dtconrad@jonesday.com; David Kusters; djjohnson@morganlewis.com; dgoetzel@intprop.com; ddonnelly@fenwick.com; ddacus@dacusfirm.com; dawn.jenkins@dlapiper.com; Danny Noteware; cswickhamer@loeb.com; CLEARCHANNELBLUESPIKEOMMTEAM@omm.com; Higgins, Christopher J.; byron.beebe@weil.com; bluespikeservice@fenwick.com; blake.jackson@dlapiper.com; bkohm@fenwick.com; bhershskowitz@gibsondunn.com; AudibleMagic-BlueSpike; Valentine, Andrew; andrew.perito@weil.com; Caridis, Alyssa; ablankenheimer@cov.com; Randall Garteiser; chonea@ghiplaw.com Honea; bluespike@ghiplaw.com; Colin Jensen
Subject: Re: Blue Spike v. Texas Instruments, et al.

Mr. Ramsey,

In the meet and confer yesterday (to which you were not an attendee), I did not make any such "assurances." I stated that Mr. Gareiser was working with another attorney to complete the 4-5 Claim Chart which I thought would be completed soon. As I was not involved in the project, I did not know how far along the chart was to completion. I made no misrepresentations.

To be clear, it was served 8:18 pm Pacific time to all the Defendants. Blue Spike, LLC also served it upon you and your local counsel at 6:49 pm Pacific time believing that you and your team would forward it on to the rest of the Joint Defense Group.

Now that Audible Magic has had the document in its possession for the past two hours, does Audible Magic have any substantive complaints to this administrative document?



Peter Brasher / Attorney

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On Sep 19, 2014, at 10:29 PM, Ramsey, Gabriel M.
<gramsey@orrick.com> wrote:

Mr. Brasher,

This email is to memorialize that you sent Blue Spike's Patent Local Rule 4-5 Statement to defendants at 10:18 Pacific time on the day that it is due. You assured us during a meet and confer yesterday at 1:30pm Pacific that you would have your Patent Local Rules 4-5 Statement to the defendants by last night, so that we could review it today. It appears that was an intentional misrepresentation. It is disappointing. This email simply serves as a record of that fact.

Sincerely,

Gabe Ramsey

From: Peter Brasher [<mailto:pbrasher@ghiplaw.com>]
Sent: Friday, September 19, 2014 8:18 PM
To: Walter Lackey; Eric Findlay
Cc: zFBBlueSpike@cooley.com; wjohnson@mayerbrown.com; tmajidian@morganlewis.com; tglanier@jonesday.com; tdavis@morganlewis.com; tcorbin@fenwick.com; sroe@gibsondunn.com; sradke@cooley.com; spfeiffer@omm.com; sjcorr@jonesday.com; ShazamBlueSpike@gibsondunn.com; ryagura@omm.com; rtautkus@morganlewis.com; rchan@morganlewis.com; rbeard@intprop.com; [16](mailto:qmc</p></div><div data-bbox=)

neal@mayerbrown.com; plenihaan@cooley.com; oarmon@cooley.com; nwhilt@omm.com; Chatterjee, I. Neel; mweinstein@cooley.com; mmolano@mayerbrown.com; Jones, Mike; lwysma@loeb.com; lcarnel@loeb.com; kristin.cleveland@klarquist.com; kfriesen@mayerbrown.com; kdlynott@jonesday.com; jsigale@loeb.com; Vandenberg, John; jfischer@cooley.com; jcarothers@cov.com; hkeefe@cooley.com; Ramsey, Gabriel M.; ehawes; Eric Findlay; Reines, Edward; ecaliqiuri@cov.com; dtconrad@jonesday.com; David Kusters; djohnson@morganlewis.com; dgoetzel@intprop.com; ddonnelly@fenwick.com; ddacus@dacusfirm.com; dawn.jenkins@dlapiper.com; Danny Noteware; cswickhamer@loeb.com; CLEARCHANNELBLUESPIKEOMMTEAM@omm.com; Higgins, Christopher J.; byron.beebe@weil.com; bluespikeservice@fenwick.com; blake.jackson@dlapiper.com; bkohm@fenwick.com; bhershkowitz@gibsondunn.com; AudibleMagic-BlueSpike; Valentine, Andrew; andrew.perito@weil.com; Caridis, Alyssa; ablankenheimer@cov.com; Randall Garteiser; chonea@ghiplaw.com Honea; bluespike@ghiplaw.com; Colin Jensen
Subject: Re: Blue Spike v. Texas Instruments, et al.

Counsel,

Please see attached Blue Spike's Joint Claim Construction chart pursuant to Patent Local Rule 4-5.

As this is principally an administrative matter, Blue Spike will plan to file by 11:30 pm central. If any defendant is opposed, please notify counsel for Blue Spike immediately.

Blue Spike is not opposed to an extension to file.

Regards,



Peter Brasher / Attorney

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<2014.06.06 [BS] Proposed Terms and Claim Elements - LPR 4-1 ('308).pdf>

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<2014_09_22 blu patents-in-suit Claim Construction Chart.docx>

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